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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0910051338-0151-02]

RIN 0648-XB059

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trip Limit

Adjustments for the Common Pool Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment of landing limits.

SUMMARY: NMFS increases the possession limits for Georges Bank (GB) cod and Southern New England (SNE)/Mid-Atlantic (MA) yellowtail flounder for Northeast (NE) multispecies common pool vessels for the remainder of the 2011 fishing year (FY), through April 30, 2012.

This is intended to facilitate the harvest of GB cod and SNE/MA yellowtail flounder to allow the total catch of these stocks to approach their pertinent common pool sub-annual catch limits (sub-ACLs).

DATES: Effective [Insert date of filing for public inspection at the Office of the Federal Register], through April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, (978) 675-2153, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the NE multispecies fishery are found at 50 CFR part 648, subpart F. The regulations at § 648.86(o) authorize the NE Regional

Administrator (RA) to adjust the possession limits for common pool vessels in order to optimize the harvest of NE regulated multispecies by preventing the overharvest or underharvest of the pertinent common pool sub-ACLs. For FY 2011, the common pool sub-ACLs for GB cod is 205,030 lb (93 mt). The initial FY 2011 trip limit for GB cod was 2,000 lb (907.2 kg) per day-at-sea (DAS), up to 20,000 lb (9,071.8 kg) per trip, for Category A DAS vessels. However, the intended initial trip limit for GB cod for FY 2011 under Framework Adjustment 45 to the NE Multispecies Fishery Management Plan (FMP) was 3,000 lb (1,360.8 kg) per DAS, up to 30,000 lb (13,607.8 kg) per trip. Therefore, an inseason action that published in the Federal Register on May 19, 2011 (76 FR 30035) increased the trip limit to 3,000 lb (1,360.8 kg) per DAS, up to 30,000 (13,607.8 kg) per trip to adjust for this inadvertent error. Subsequently, an inseason action that published in the Federal Register on August 30, 2011 (76 FR 53832), reduced the GB cod trip limit to 300 lb (136.1 kg) per DAS, up to 600 lb (272.2 kg) per trip, for Category A DAS vessels. For Handgear B vessels, the GB cod trip limit was reduced to 25 lb (11.3 kg) per trip from 75 lb (34.0 kg) per trip on October 3, 2011 (76 FR 61060).

For FY 2011, the common pool sub-ACL for SNE/MA yellowtail flounder is 265,555 lb (120 mt). The initial trip limit for SNE/MA yellowtail flounder was 500 lb (226.8 kg) per DAS up to 2,000 lb (907.2 kg) per trip, and has not been revised for this fishing year.

As of February 25, 2011, the best available catch information, including information from Vessel Monitoring System (VMS) reports and dealer reports, indicates that approximately 58.5 percent of the GB cod and 1.2 percent of the SNE/MA yellowtail flounder common pool sub-ACLs has been harvested. Based on this information, the RA has determined that additional measures are warranted to help facilitate the harvest of GB cod and SNE/MA yellowtail flounder to better allow the total catch of these stocks by common pool vessels to approach their pertinent

common pool sub-ACLs. Therefore, the trip limit for GB cod is increased to 1,500 lb (608.4 kg) per DAS, up to 4,500 lb (2,041.1 kg) per trip; and the trip limit for SNE/MA yellowtail flounder is increased to 1,500 lb (608.4 kg) per DAS, up to 4,500 lb (2,041.8 kg) per trip, for Category A DAS vessels, effective [Insert date of filing for public inspection at the Office of the Federal Register], through April 30, 2012. In addition, the trip limit for GB cod is increased to 75 lb (34.0 kg) per trip for open access Handgear B vessels effective [Insert date of filing for public inspection at the Office of the Federal Register], through April 30, 2012. This action does not change the current cod trip limit for vessels with a limited access Handgear A permit (300 lb (136.1 kg) per trip) or Small Vessel Category permit (300 lb (136.1 kg) of cod, haddock, and yellowtail flounder combined). Catch will continue to be monitored through dealer-reported landings, VMS catch reports, and other available information, and if necessary, additional adjustments to common pool management measures may be made.

#### Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment for this inseason adjustment because notice and comment would be impracticable and contrary to the public interest. The regulations at § 648.86(o) grant the RA authority to adjust the NE multispecies trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool sub-ACLs. The information informing this action only very recently became available. Give this fact, this action increases the trip limits for GB cod and SNE/MA yellowtail flounder to reduce the probability of underharvesting the common

pool sub-ACLs. The information informing this action only very recently became available. Given his fact, the time necessary to provide for prior notice and comment would prevent NMFS from implementing the necessary trip limit adjustments in a timely manner. A resulting delay in the liberalization of trip limits would unnecessarily restrain catch rates for GB cod and SNE/MA yellowtail flounder, thereby preventing the total catch of these stocks to further approach the pertinent common pool sub-ACL. Giving effect to this rule as soon as possible will prevent these unnecessary impacts.

Further, the AA finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This action increases the trip limits for GB cod and SNE/MA yellowtail flounder to reduce the probability of underharvesting the common pool sub-ACLs. A delay in the increase of these trip limits would prevent vessels from harvesting catch at higher rates and potentially prevent the total catch of these stocks to further approach the pertinent common pool sub-ACL. Giving effect to this rule as soon as possible will prevent these unnecessary impacts.

Authority: 16 U.S.C. 1801 et seq.

Dated: March 8, 2012

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Carrie Selberg,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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